
A Client-Focused Practice: Developing and Testing Emotional Competency in Clinical Legal Interviews

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Introduction

Law students learn interviewing skills as part of their clinical legal education. Teaching this skill to students involves helping students relate to clients. Recent suggestions for teaching students have included adopting a client centred approach to legal interviewing.¹ Similarly, in the face of growing concerns about the adversarial culture of lawyers there have been calls for lawyers to develop relationship-centred competencies.²

Typically, law students attending law schools are in their early twenties and, in terms of experience and developmental capacities, many may not be at a stage where thinking about the client comes naturally.³ Students interviewing clients tend to ignore visual or spoken clues from the client. A law student, observed by one of the authors, recently demonstrated this tendency whilst interviewing a client at the University of Newcastle Legal Centre (UNLC). The client's gaunt physical appearance made it clear that the client was unwell. The student took instructions for a Will without asking any questions about the client's motivation for seeking legal help. It later transpired that the client needed advice about a terminal illness claim.

If law students can learn how to improve their emotional competency whilst interviewing a client, they may relate better to clients in a clinical legal setting and be able to obtain more relevant information.⁴ We have found no recent research in the discourse on clinical legal education as to whether training in emotional intelligence can improve law students' performance in a client interview. At the University of Newcastle we have designed a research project to test whether training students in emotional competence (applied Emotional Intelligence) can produce a measurable change in the client's experience of a legal interview.

One of the major challenges in researching this question is the lack of guidance in the literature as to how best to train law students for emotional competence. Many publications have focused on the validity or measurement of emotional intelligence and less on the functional aspect of how to increase emotional competencies. Part of the research project therefore involves designing a training program to assist clinical law students to develop emotional competencies.

This paper is in two parts. The first part discusses the background to the research and some preliminary findings from stage one of the research. The second part discusses a proposed outline for the training program.

1 Binder et al, *Lawyers as Counsellors: A Client Centered Approach* (West Thomson 3rd ed, 2011).

2 Susan L Brooks & Robert G Madden (eds), *Relationship-Centered Lawyering: Social Science Theory for Transforming Legal Practice* (Carolina Academic Press, 2010).

3 Research by Deborah Yergulun Todd, for example, using brain scans has found that adolescents use a different part of their brain (amydala) and not the pre-frontal cortex when appraising emotions. Whilst her focus is on children she notes that changes in the brain occur until the early twenties see Deborah Yergulun Todd 17(2) 'Emotional and Cognitive Changes During Adolescence' *Current Opinion in Neurobiology* 251.

4 Marjorie A. Silver, 'Emotional Intelligence and Legal Education' (1999) 5 *Psychology Public Policy and the Law* 1173.

A. Background and Preliminary Research Findings

1. History and Terminology

The interdisciplinary nature of much of the discourse on emotional intelligence makes it difficult to identify a commonly accepted definition. In addition, early claims made about emotional intelligence were not supported by empirical data.⁵ This is likely to have made the concept of ‘emotional intelligence’ unattractive to legal educators. For the purposes of legal education, more helpful terminology is to describe the process of becoming emotionally intelligent as the acquiring of “emotional competencies”.

The emergence of the concept of emotional intelligence can be attributed to many different sources. Many accounts start in the 1920s with Edward Thorndike, who identified what he called ‘social intelligence’ skills.⁶ In the 1980s, the psychologist Howard Gardner developed a theory of multiple intelligences that included what he called ‘interpersonal’ and ‘intrapersonal’ intelligences.⁷ In the 1990s, psychologists Peter Salovey and John Mayer took the research further. They identified ‘emotional intelligence’ and developed a tool to measure it.⁸ Their ideas took hold in popular literature when Daniel Goleman, psychologist and journalist, made claims that ‘emotionally intelligent’ people were more likely to be successful in life.⁹ From its base in psychology, the literature on emotional intelligence has grown significantly in a number of disciplines. A 2012 review in the medical discipline found 1,947 articles on emotional intelligence.¹⁰

In the mid-1990s the debate in the literature focussed on whether emotional intelligence had any discrete validity that could be distinguished from General Mental Ability (GMA) or personality differences.¹¹ Many publications assumed either that emotional intelligence was a trait or an ability. The trait approach has been criticised on the basis that assessments of trait emotional intelligence may not be distinguishable from assessments of personality factors.¹²

If emotional intelligence were a “trait” then it may not be possible to ‘develop’ it, or change how a person experiences, perceives or engages with emotions in themselves or others. There are studies,

5 For a comprehensive discussion on these issues see Kevin R Murphy (ed) *A Critique of Emotional Intelligence, What are the problems and How Can They Be Fixed* (Lawrence Erlbaum Associates, 2006).

6 Thorndike E., ‘Intelligence and its uses’ (1920) 140 *Harper’s Magazine* 22; for a detailed history see Frank J Landy, *The Long, Frustrating, and Fruitless Search for Social Intelligence: A Cautionary Tale in Ibid*, ch 4.

7 Howard Gardner, *Frames of Mind: The Theory of Multiple Intelligences* (Basic Books, 1983).

8 The test has been refined and the latest version is version 2.0 see John D Mayer et al, ‘Measuring Emotional Intelligence With the MSCEIT V2.0’ (2003) 3 *Emotion* 97.

9 D Goleman, *Emotional Intelligence: Why it can matter more than IQ* (Bloomsbury, 1996).

10 M. Gemma Cherry et al, ‘What Impact do Structural Educational Sessions to increase emotional intelligence have on medical students?’ (2012) 34 *Medical Teacher* 11.

11 M Davies, L Stankov and R D Roberts ‘Emotional intelligence: In search of an illusive construct (2008) 75 *Journal of Personality and Social Psychology* 989.

12 M Zeidner, G Matthews and R D Roberts, *What we know about emotional intelligence: How it affects learning, work, relationships, and our mental health* (MIT Press, 2009).

however, which suggest that training in emotional intelligence can lead to increased emotional competencies.¹³

In seeking to find ways to develop and measure emotional competency in legal interviewing, the authors adopt the 'ability' model. The ability model is described by Salovey and Mayer:

'the ability to accurately perceive emotions, to access and generate emotions so as to assist thought, to understand emotions and emotional knowledge, and to reflectively regulate emotions so as to promote emotional and intellectual growth'.¹⁴

2. Why the time is right to start teaching emotional competencies to law students

The Australian Government is currently developing a new Higher Education Quality and Regulatory Framework, which includes the establishment of the Tertiary Education Quality and Standards Agency (TEQSA). As part of this process, the notes for the development of Threshold Learning Outcome 6 on self-management state:

Legal employers have identified the need for graduates to have emotional intelligence – the ability to perceive, use, understand, and manage emotions. The TLOs encourage the development of emotional intelligence by attending to both self awareness (TLO 6) and the need to communicate and work with others (TLO 5).¹⁵

In the field of clinical medicine, a review found that measures of emotional intelligence correlated with many of the competencies that the modern medical curricula seek to deliver.¹⁶ These include the ability to provide more compassionate and empathetic patient care, greater capacity to cope with organisational pressure and enhanced communication with patients. Similar competencies are necessary for the developing legal practitioner and are qualities expected in clinical law students.¹⁷

Legal educators in the US have begun to acknowledge the value of emotional competencies in legal practice and have incorporated discussion about emotion into negotiation training.¹⁸ A US

13 Nicola S Schutte, John M Malouff and Einar B Thorsteinsson, 'Increasing Emotional Intelligence Through Training: Current Status and Future Directions' (2013) 5(1) *The International Journal of Emotional Education* 56; for a finding that training in emotional intelligence results in better patient care see for example H C Weng et al 'Doctors' Emotional intelligence and the patient- doctor relationship' (2008) 42 *Medical Education* 703 and for a comprehensive analysis in the medical field see above n10. For findings that emotional intelligence results in better student outcomes in schools see the meta analysis conducted by Durlak et al, 'The Impact of Enhancing Students' Social and Emotional Learning: a meta-analysis of school-based universal interventions' (2011) 82(1) *Child Development* 405.

14 J D Mayer, P Salovey, and D R Caruso, 'Emotional Intelligence: Theory, Findings and implications' (2004) 15 *Journal of Psychological Inquiry* 197, 197.

15 See discussion by Anna Huggins, Sally Klift and Rachael Field, 'Implementing the Self Management Threshold Learning Outcome for Law: Some intentional design Strategies from the Current Curriculum Toolbox' (2011) 21(2) *Legal Education Review* 183.

16 Arora et al, 'Emotional Intelligence in Medicine. A systematic review through the context of the ACGME competencies' 2010 (44) *Medical Education* 749.

17 For example, the theoretical framework for best practice in clinical legal education is described as including the ability to develop student emotional skills, their confidence, self- esteem and an ability to sensitise students to the importance of client relationships see <http://www.cald.asn.au/assets/lists/Resources/Best_Practices_Australian_Clinical_Legal_Education_Sept_2012.pdf>

18 Peter Reilly Teaching Law Students How to Feel: Using Negotiations Training to Increase Emotional Intelligence (2005) *Negotiation Journal* 301; Roger Fisher and Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate* (2005, Viking).

legal educator who suggests that emotional intelligence should be taught in law schools observes:

‘Without great cost or even restructuring the standard law curriculum it can be easily incorporated into legal education. Social science research on emotional intelligence has matured to the point that its usefulness is becoming clearer’¹⁹

In addition, interest has been growing in helping law students develop their emotional competencies as a way to manage their law school experience and to protect their own wellbeing. This response arises from research in both the US and Australia suggesting that law school can be detrimental to law students’ mental health.²⁰

3. The current research project

The research is being conducted at UNLC. The research project was submitted for human research ethics evaluation and approval was obtained on 25 October 2012.²¹ The UNLC is a community legal centre funded by the University of Newcastle which, as well as helping those people with limited financial means or dealing with matters of public interest, teaches clinical skills to students enrolled on the University’s Legal Professional Program. The Professional Program is an accredited Practical Legal Training program (PLT). If students complete the PLT program then they gain eligibility to obtain a certificate to practice as a lawyer. The Program involves students undertaking 360 hours of professional placement and learning clinical skills in the classroom through practical legal modules. The participating students enrolled on the Profession Program are senior students in the last 2 years of their studies.

As part of their placement, law students on duty at the UNLC interview almost all clients who attend the Centre’s drop-in clinic as a precursor to working on the clients’ legal problems under the supervision of UNLC solicitors.

At present the students receive one day of induction training prior to conducting interviews with clients and this induction training is along traditional lines borrowing from standard legal texts on interviewing and includes seminar instruction and role-plays. The emphasis is upon listening, summarising, open/closed questioning, problem identification and fact finding.

The format of a standard live client interview at the UNLC involves a student or a small group of students, greeting the client, taking them to an interview room, explaining the process (including that the interview is confidential and that the service is pro bono) and then spending time with the client asking them about their problem. The student then leaves the client in the interview room for about 10 minutes to discuss the problem with a supervising lawyer, after which the lawyer and the student return to provide the client with legal advice.

19 John E Montgomery, ‘Incorporating Emotional Intelligence Concepts into Legal Education: Strengthening the Professionalism of Law Students’ (2008) *University of Toledo Law Review* 325.

20 Krieger, L.S. ‘Institutional denial about the dark side of law school and fresh empirical guidance for constructively breaking the silence’ (2002) *Journal of Legal Education* 52; M Townes O’Brien, S Tang and K Hall, ‘No Time to Lose: Negative Impact on Law Student Wellbeing May Begin in Year One’ (2011) 2(2) *The International Journal of the First Year in Higher Education* 49.

21 University of Newcastle Human Research Ethics Committee, Approval No. H-2012-0368.

4. Research methodology overview

The purpose of the research project is to determine whether students who have been trained in emotional competencies perform better in the initial legal interviewing process (described above) than students who have not received the training.

The research design involved three stages: a pilot stage in late 2012, a 'control group' in stage one in early 2013 (which has been completed at time of writing) and an 'intervention group' in stage two which is designed for the first half of 2014.

Clients assess student performance in the interviews using short questionnaires, which involve the collection of quantitative and qualitative data. In addition, students and supervisors complete similar questionnaires to enable some triangulation of results. The quantitative data involves asking each participant to record a response to a statement using a simple scale of 1 – 5 ('Likert'). The collection of qualitative data is through open questions on the surveys inviting more detailed responses than can be provided in the short Likert questionnaires.

Our questionnaire design, for stages one and two, was informed by two sources: the 'standardized client' research by Barton et al (2006) and the CARE questionnaire developed by Mercer et al (2004).²² Further refinements were enabled by the results obtained in the pilot stage with an early version of the instrument completed by 12 clients.

The Barton standardised questionnaire was based on existing research about legal interviewing and was designed simply to 'reinterpret the 'do's and don'ts' of good interviewing'.²³ We used the essence of questions from this questionnaire, designed to test rapport creation and information exchange between the client and the student interviewer. The CARE questionnaire comes from the medical field, and was designed to measure patients' responses to interviews by medical practitioners, specifically, whether an interviewer was "patient centered". One credential of the CARE model was its testing across a diverse population from backgrounds of socio-economic deprivation to those of more affluent people. In our case, the majority of clients who attend the UNLC advice clinic are from a low socio-economic background.

5. The pilot

The pilot involved survey responses from 12 clients, 25 students and 4 supervisors and was conducted at the UNLC legal advice clinic on 31 October 2012.

The pilot responses from the clients indicated significant 'participant bias'. We anticipated that the clients would be positive in their responses, as reported in the Barton et al research where live clients 'gave very positive responses to all the items'.²⁴ However, our pilot clients were overwhelmingly positive in their responses to the student interviews, which made it difficult to

22 K Barton et al, 'Valuing what clients think: standardized clients and the assessment of communicative competence' (2006) 13(1) *Clinical Law Review* 1; S W Mercer et al, 'The development and preliminary validation of the Consultation and Relational Empathy (CARE) Measure: an empathy-based consultation process measure (2004) 21(6) *Journal of Family Practice* 699; Mercer et al, 'Relevance and practical use of the Consultation and Relational Empathy (CARE) Measure in general practice' (2005) 22 (3) *The Journal of Family Practice* 328.

23 Above n 22, 36.

24 Above n 22, 27.

distinguish and interpret useful information from the data.

Consequently, we made changes to the questionnaire including an additional qualitative question to invite the clients to think more critically about the interview by asking them to suggest ways the students might improve. We also added a brief explanation to each Likert question. The refined questionnaire had 8 quantitative questions and 2 qualitative questions. A copy of the client questionnaire forms Annexure “A” to this paper.

6. Stage One of the Research

Stage One was conducted during each advice clinic at the UNLC on every Wednesday morning between 10 April 2013 and 29 May 2013 (8 weeks). A research assistant spoke with the students and invited them to read the Participant Information Statement (PIS) and, subject to agreement, to participate in the project by completing the short questionnaire after each client interview. The research assistant also spoke with the supervisors and clients, inviting each client to consider participating. During the research period, 116 clients, 52 students and 4 out of the 6 potential supervisors participated (the remaining supervisors are the authors).

Of the client responses, 15 responses were not counted for the preliminary results leaving 101 results. Two of the 15 responses were not counted because the client did not record any answer at all. The remaining 13 were not counted because the client just circled the same answer and provided no qualitative feedback to suggest they had thought about their answers.

7. Preliminary Quantitative Results of Stage One

Despite the changes to the questionnaires, the Stage One clients were very positive when reporting their experience of the interview. For example, in five out of the eight questions, the clients mostly responded as “agree” or “strongly agree” and rarely strayed into the negative or “unsure” categories.

For this reason, the answers to questions 3 and 4 stand out because some clients recorded that they “disagreed” with the statements. Question 3 asked whether the student had accurately summarised the story from the client. Question 3 was “reverse oriented” (ie contrary to all other statements in the questionnaire a positive response required the client to “disagree” or “strongly disagree” rather than “agree” or “strongly agree” and it may be that some respondents failed to appreciate this.

Question 4 read:

4 The law student was interested in me as a whole person

(asking/knowing relevant details about your life, your situation; not treating you as “just a number”)

In our view, the key preliminary quantitative result from the client questionnaire is that the clients felt that the quality of their interview with the students was good however just over 10% disagreed or were unsure that the law student was interested in the client as a “whole person” and just over 10% disagreed or were unsure that the student had demonstrated asking/knowing relevant details about the client’s life or situation.

8. Qualitative Results of Stage One

The questions directed at the clients were: “Please use the space below if you would like to explain how the student could improve upon their interviewing skills” and “Please use the space below if you would like to explain any of your answers to the questions on the survey”.

58 clients chose to answer one or both of the qualitative questions. Some of the answers were discounted as not useful because they were directed at the format of the questionnaire and not the client’s reaction to the interview process. 27 responses provided positive feedback such as:

I think they did well I had a very difficult situation and they were very calm and patient and helpful

Our preliminary analysis reveals three common themes in the responses: Those which discussed the importance of “listening” (12), those in which the client stated that their matter was “complex” (4) and those who made references to the concept of an emotional connection (9). Examples relating to the emotional connection included the following comments:

Did not really get to a real human level as did not discuss family issues at this time

The students did not ask if everyone was OK.

The students seemed keen to help, just a bit distant, hopefully this is helpful

This is a speeding fine case, I would be alarmed if the students were overly compassionate and interested in me as a person. A certain level of “detachment” is required to maintain professionalism

One interesting response from a student interviewing a client about a Will (not the same matter used in the example in the introduction) was:

Due to the nature of the matter we couldn’t ask detailed and sensitive questions

A supervisor reported:

The first thing the student said to me was “this client is nuts”..she wasn’t just very passionate and their whole demeanour was “what’s this client on about?”

9. Summary of Part A

Overall, the quantitative and qualitative results to date suggest that there is room to improve the quality of the interaction between a law student and a client in a live client interview. As discussed above, in seeking to improve the quality, we aim to train law students to develop emotional competencies and to see whether the training can make a difference to the Stage two results. Stage two will involve asking clients, students and supervisors to answer the same questionnaires in 2014 but after the students have received emotional competency training.

B. Training for emotional competency in a live client interview – how much training and what training should the students receive?

1. The amount of the training

The teaching of law continues to have a content focus.²⁵ It is difficult to find space in the curriculum to add skills and abilities training.

However, research suggests that improvements can be achieved within modest time frames. A small study in empathy training carried out by John Barkai and Virginia Fine written up in 1982 suggests that 4 hours of training made a difference in the rating responses for empathy between a control group and a trained group of law students.²⁶ In the medical context, 14 studies demonstrated a link between training and improvement in emotional intelligence and these involved training periods of between 4 to 30 hours.²⁷

Based on this research, the authors believe that a 10 hour training module made up of 8 hours of face-to-face training and 2 hours of reading and reflective activities is sufficient for the purposes of improving student competency.

2. The characteristics of the training

Students will not be receptive to gaining competency if they see no relevance to the training. Thus, whilst ideas can be obtained from other disciplines, the context must be changed.

There is a risk of demoralising students if they cannot adjust to the skills training or feel that their abilities are being judged as sub-standard. Academic success at law school does not involve assessment of emotional competency and some students who are used to obtaining high marks may feel challenged if they feel they are not excelling immediately. A small qualitative research study from Ireland justifies these concerns. The study set out to answer the question why students choose not to avail themselves of emotional competency coaching and includes this response about results of testing for emotional competency: “I’m kind of afraid” and “I didn’t want to go back in case it was really low”.²⁸

To avoid the risk of demoralisation, the “public face” of the training should foster collaborative learning where students work in pairs or in groups and the teacher must be able to encourage non-competitive behaviour when leading discussions.

Group discussions both in small groups and with the whole class are extremely important.

25 PLT “areas of knowledge” are listed in the Fifth Schedule of the *Legal Admission Rules* 2005 (NSW) and there are “core” subjects which must be taught as part of a law degree if students are to gain eligibility for legal practice see Schedule 1, Law Admissions Consultative Committee Uniform Admission Rules <http://www1.lawcouncil.asn.au/LACC/images/pdfs/212390818_1_LACCUniformAdmissionRules2008.pdf>

26 The study tested students before and after training using the Truax Accurate Empathy Scale and found that students increased their scores after training, John L Barkai and Virginia O Fine, ‘Empathy Training for Lawyers and Law Students’ 13 (1982-83) *SouthWestern University Law Review* 505.

27 Above n10.

28 Aiden Carthy et al, ‘Reasons For Non-engagement With The Provision Of Emotional Competency Coaching: A Qualitative Study Of Irish First Year Undergraduate Students’ 2012 (4) *All Ireland Journal* 75.

Emotions are to some extent “socially determined”²⁹. There is real value in students learning from each other and from the lecturers in the classroom through discussion.³⁰

Apart from the teaching of the theory of emotion and emotional intelligence, the training module should not involve didactic teaching but should aim to transform the students’ frame of reference. The training should build on the students’ first impressions of working with live clients or any similar experience and their capacity to try out what they are learning inside and outside the classroom.

3. The Four Key Domains

Based on the Mayer and Salovey ability model described above, there are four key domains or “branches” to seek to improve: understanding emotion, identifying emotions in oneself and others, expressing and using emotions and managing emotions. These are discussed below as separate components but in reality the concepts merge into each other.

4. The Introduction to the Module and Understanding emotions

It is important to explain to the students at the outset why they should acquire emotional competency. Students trained almost exclusively to “think like a lawyer” need a cognitive frame of reference first. A university is well placed to introduce cross-discipline training. Students should receive didactic teaching from a lecturer skilled in psychology to introduce students to the theories of emotions.

Further explanation can include a wide -ranging discussion from law lecturers about the emergence of the study of emotion and why it is important for lawyers. It should also include discussion about the knowledge of the brain and the role of emotion in decision-making.³¹

Students need to understand what causes emotion and how emotions may appear in clients. They need to learn that emotions are fleeting, changeable, overlap and can be deceptive. For example, an angry client may be a frightened client. In Australian high schools, for example, where aspects of emotional intelligence are already being taught, the curriculum on understanding emotion teaches the causes and consequences of a wide range of emotions and the ability to label emotions.³²

5. Identifying emotions in others

This skill includes ‘paying attention to and accurately decoding emotional signals in individuals’.³³ A helpful way to train students to identify emotions at first instance is through the use of video

29 David R Caruso, *El Tests Emotional Intelligence* <<http://www.emotionaliq.org/Test.htm>>

30 N Clarke, ‘Developing Emotional Intelligence Abilities through Team Based Learning’ (2010) 21 *Human Resource Development Review* 119.

31 For a good discussion see Richard Roche ‘Learning and the Brain’ in Paul Maharg and Caroline Maughan (Eds) *Affect and Legal Education : Emotion in Learning and Teaching the Law* (Farnham: Ashgate, 2011).

32 Marc A Brackett et al, ‘Enhancing Academic performance and social and emotional competence with the RULER feeling words curriculum’ (2012) 22 *Journal of Learning and Individual Differences* 218.

33 Peter K. Papadogiannis, Deena Logan, and Gill Sitarenios ‘An Ability Model of Emotional Intelligence: A Rationale, Description, and Application of the Mayer Salovey Caruso Emotional Intelligence Test (MSCEIT)’ in James D A Parker, Donald H Saklofske and Con Stough (eds) *Assessing Emotional Intelligence Theory Research and Applications* (Springer, 2009).

rather than a written scenario. It is now relatively easy to make good quality videos for use in the classroom. Video clips of actors (who are used to displaying emotion) portraying legal clients can be filmed for use in class. Questions generated from these video clips can help strengthen students' observational skills. Group observation sheets can guide student observation. For example, which emotions is the client definitely not feeling? Which emotions is the client more likely feeling? Is the client displaying conflicting emotions? A video of an actor simulating a client verbally expressing one emotion but displaying another could also encourage observational and listening skills.

6. Identifying emotion in oneself -enhancement of emotional self awareness

Students need to become a good observer of their own feelings, to 'accept and value them, and to attend to what those feelings might signal'.³⁴ Research in psychology helps identify the physiological changes that take place when different emotions are experienced and these changes can be taught to students to help them recognise their own emotions.

In addition to the recognition of emotions, self-awareness should also include 'knowing one's own values, biases, motivations and attitudes towards others and situations'.³⁵

Self-awareness is best achieved through short reflective activities in class and through a journal or self-reflection exercises outside the classroom. Students should be provided with appropriate guidance to practice the skill of self-reflection.³⁶ Some excellent reflective journal prompts used in nurse education can be adapted for legal clinical practice.³⁷

7. Expressing and Using Emotion

Using emotions involves "harnessing the effects of emotions".³⁸ How a person feels can influence how a person thinks, how they remember what was said and how they make decisions. Students need to learn how to match emotions to the "task at hand" and to recognise when might be the best time for a client to make certain types of decisions and when is the right time to ask the client more questions. This ability can be practiced by students through role-plays and outside the classroom as material for their reflection journals.

8. Managing one's own emotion

If students can recognise their own emotions then students can learn strategies to self manage. Strategies can include cognitive exercises. "Thinking" strategies include being able to recognise the sensation of emotion and to experiment with ways to maintain or "reframe" feelings. The concept

34 Board of Trustees of the University of Illinois (2007) <<http://www.counselingcenter.illinois.edu/self-help-brochures/self-awarenessself-care/experiencing-and-expressing-emotions>>

35 Kim Foster and Heather McKenzie, Educational approaches and Activities to Enhance EI in John Hurley and Paul Linsley (eds), *Emotional Intelligence in Health and Social Care, A guide for Improving human relationships* (Radcliffe Publishing, 2012), 127.

36 Anna Huggins, Sally Klift and Rachael Field, Implementing the Self Management Threshold Learning Outcome for Law: Some Intentional Design Strategies from the Current Curriculum Toolbox (2011) *Legal Education Review* 21.

37 Paula A Harrison et al, 'Reflective Journal Prompts: A Vehicle for Stimulating Emotional Competence in Nursing' (2010) *Journal of Nursing Education* 644.

38 Nicola Schutte et al, Increasing Emotional Intelligence Through Training: Current Status and Future Directions (2013) 5(1) *The International Journal of Emotional Education* 56, 56.

of “mindfulness” which comes from positive psychology fits nicely with self- management because it involves training to notice and to self -regulate emotion.³⁹

9. Managing other people’s emotions

Students need to learn how to respond to client’s emotions and how to anticipate emotional behaviour. Using the video clips and stopping the videos to ask the students “what would you say next to the client?” allow students to start thinking about these management issues.

In addition, groups of students can be invited, for example, to think about a particular case study and to develop a strategy for interviewing the client which they can share with the class. As part of the process, students should be asked to think about what the client might be feeling and what it is like to be the client, and what sort of questions they might ask the client based upon those reflections. The class can later brainstorm the ideas generated and to reflect on how to approach a client in a similar situation in the future.⁴⁰

Barkai and Fine provide useful detail for the type of discussion, which can take place between a lecturer and the students.⁴¹

There is some helpful literature for students to read (as part of their work outside the classroom) which might start students thinking about the client’s presentation, feelings, concerns and motivations when consulting lawyers.⁴² Inviting social workers or lawyers (who have first-hand knowledge of clients and their feelings) into the classroom to explain to the students what it might feel like to be the client in a case study would add some realism to the discussions.

39 See Seligman and Csikszentmihalyi, ‘Positive Psychology, An Introduction’ (2000) 55 *American Psychologist* 5; M K Rasmussen and A M Pidgeon ‘The direct and indirect benefits of dispositional mindfulness on self esteem and social anxiety (2011) 24 *Journal of Anxiety Stress & Coping* 227; S L Keng et al. ‘Effects of Mindfulness on Psychological Health- A review of empirical studies’ (2011) 31 *Clinical Psychology Review* 1041.

40 An idea discussed in Helen O’Sullivan et al ‘Integrating professionalism into the curriculum, AMMEE guide no 61’ 2012 (34) *Medical Teacher* e64, e68.

41 Above n 26, 525-526

42 Tamara Relis, ‘It’s Not About the Money!: A Theory on Misconceptions of Plaintiffs’ Litigation Aims’ (2006) 68 *University of Pittsburg Law Review* 701; Gillian K Hadfield, ‘Framing the Choice between Cash and the Courthouse: Experience with the 9/11 Victim Compensation Fund’ (2008) 42 *Law and Society Review* 645; Niek E Elbers et al, ‘Exploring Lawyer–Client Interaction A Qualitative Study of Positive Lawyer Characteristics’ (2012) 5(1) *Psychological Injury and the Law* 89, Hilary Sommerlad, *English Perspectives on Quality: The Client-Led Model of Quality – A Third Way?* (2000) 33 *University of British Columbia Law Review* 491; G Gellhorn ‘Law and Language: An empirically based model for the opening moments of client interviews’ (1998) 4 *Clinical Law Review* 321.

Conclusion

Law students need to learn how to be effective interviewers as part of their legal training. Students will be more effective if they can relate well to clients. Teaching students how to improve their emotional competency is likely to be an important part of this process.

The research project described above and underway at the University of Newcastle is positioned to help answer questions about how to train for emotional competency and whether such training can improve student emotional competency. The authors hope that their work will ultimately make a small contribution to the design of teaching programs for law students and look forward to sharing further insights after stage two of the research in 2014.

